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STATEMENT OF  
SECRETARY BOB BERGLAND  
U.S. DEPARTMENT OF AGRICULTURE  
Before The  
SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION  
COMMITTEE ON EDUCATION AND LABOR  
HOUSE OF REPRESENTATIVES

April 21, 1977

Mr. Chairman and members of the Committee, I am pleased to have this opportunity to meet with you to discuss the Summer Food Service Program for Children, and several of our other child nutrition programs. Let me at the outset affirm my support for the objectives of the Summer Food Service Program for Children. That objective, as we know, is to protect the health and well-being of needy children by continuing during the summer months the food assistance they receive during the school year through such programs as the school lunch and breakfast programs.

The summer food program has encountered very serious problems in recent years. There is no question that there have been abuses. We have seen the overordering of meals, spoiled meals, and allegations of fraud and collusion between sponsors and vendors. Last summer problems were especially severe.

Let me pledge to you, my former colleagues in the House, that I am determined to see that these problems are corrected. I am committed to working together with you to reform this program so that it more effectively operates as the Congress intended.

We have already been hard at work, and on March 1 published regulations that represent a significant overhaul of this program.

The new regulations are specifically designed to tighten program administration and minimize the problems we encountered last summer.

The new regulations provide much stricter control over certification operation, and monitoring of the summer program at all levels. The changes we have made in the new regulations include:

- States are directed to deny the application of any sponsor that ran the program in any previous year and was seriously deficient in its operation.
- States are also directed not to approve sponsors who do not provide an ongoing year-round service to the community, except in the cases of residential camps, programs for children of migrant workers, and instances where no program would otherwise be available to provide food to needy children.
- Where competing sponsors apply to serve the same area, States must give priority to sponsors operating only one site, to sponsors preparing meals on-site rather than those using vending companies, and to schools. Priority will not be given to private organizations proposing to run large programs and to secure meals through private vendors.
- States are responsible for closer examination of sponsors and sites before approving them. In cities with public school enrollments

of over 75,000 (the areas that have witnessed the greatest problems in recent years) States are required to visit every non-school site in the city before approving such sites.

- Every sponsor must be audited. In the case of sponsors receiving over \$50,000 in program funds, the sponsor must hire an independent CPA to conduct the audit and must present the audit to the State before it can receive final settlement of its claim for reimbursement. In the case of sponsors receiving less than \$50,000, the State must conduct the audit itself.
- States are directed not to approve any site to serve more than 300 children a day, unless State personnel inspect the site and determine that it can accommodate the service of more than 300 children in a well-managed fashion.
- States are also required not to approve any sponsor to operate more than 200 sites, or serve more than 50,000 children, unless the sponsor demonstrates to the satisfaction of the State that it is capable of managing a program of that size without jeopardizing program integrity.
- States must work with sponsors to develop specifications for the quality of food served.
- A variety of changes are made in bidding procedures to prevent collusive bidding. States are required to develop standard contracts which sponsors contracting for food service must use. Sponsors must submit to the State for approval their plans for the synopsis of

"invitations to bid." All bids that exceed the lowest bid by more than 2 cents per meal must be submitted to the States for approval. The State must be present at the opening of all bids for large contracts. Vendors must obtain bid bonds and performance bonds.

The changes should make a substantial difference. However, we do not feel they are sufficient to resolve all of the issues regarding this program. Some issues need legislative changes. We would therefore like to present to the Committee today the Administration's proposals for a number of legislative alterations in the summer feeding program and for extension of the program through fiscal year 1978. The changes we are proposing are designed to tighten up the program.

There are two reasons why we are suggesting only a one-year extension at this time. First, we would like to study very carefully this summer's program in order to ascertain the impact of our new regulations and to determine what further changes beyond those we will be discussing here today may be needed. In addition, we plan to undertake a review of all of our child nutrition programs, and to develop the Carter Administration's strategy for the future directions the child nutrition area should take.

Based on the results of our study of this summer's program, and our review of the child nutrition area in general, we will develop legislative proposals for presentation to the Congress next year. These proposals will be aimed at the fiscal 1979 budget year and succeeding years.

The proposals we submit for your consideration today include the following revisions and clarifications in Section 13 of the National School Lunch Act:

(1) An incorporation directly into law of the provisions of the new regulations barring sponsors who were seriously deficient in prior program operations, or who cannot demonstrate adequate administrative and financial responsibility. We would also write into law the new regulation barring sponsors who do not provide an on-going, year-round service to the community, unless such sponsors are the only institutions in an area available to serve needy children.

(2) A parallel disqualification of vendors who were seriously deficient in the past or who lack adequate financial or administrative capability.

(3) A provision to prevent program dollars from going to large numbers of non-needy children at camps. Currently, a camp can enter the program and receive reimbursement for the full cost of meals served to all children so long as one-third of the children meet the eligibility standards for free or reduced-price meals. We would change the law so that camps would be reimbursed only for meals served to children who meet the eligibility criteria for free or reduced-price school meals.

(4) A provision giving authority to USDA to modify the reimbursement rate structure now written into law, if after appropriate study, the Department determines that the current rates for food service operations (other than administrative costs) are too high.

(5) A similar review of the reimbursements paid to sponsors for their administrative costs. At present, sponsors can receive up to 6.75 cents per lunch for administration, and this formula can encourage sponsors to inflate the number of lunches served. We would delete the current administrative rate structure from the law, and direct instead that the Department prescribe a new rate structure after appropriate study. We wish to examine new rate structures that take economies of scale into account, and that do not encourage sponsors to inflate their meal counts. In addition, we would like to examine whether schools should be permitted higher administrative reimbursements than other sponsors.

(6) A restriction that sponsors may serve more than one meal per day only if they have the administrative, food preparation and food storage capabilities needed to manage a multiple meal service.

(7) A limitation on the amount of advance credit any sponsor may receive (except in limited circumstances where the State determines that a school or a sponsor preparing meals on-site needs larger credit to operate the program and where the sponsor has the administrative and managerial capability to justify larger credit. Our belief is that small sponsors running good programs for children from their community may need credit in advance but that the larger operations can get by without advance credit of the magnitude to which they are entitled under the current law. We propose to limit monthly advance credit to any one sponsor to \$40,000.

(8) A modification of the formula under which States receive Federal funds with which to administer this program. Under the current statutory formula, States with a \$45,000 program receive only \$900 in administrative funds. States with a \$50,000 program receive \$10,000 in administrative

funds, but States with a \$500,000 program still receive only \$10,000 with which to run the program. Due to the inequities of this formula, two States with moderate size programs have declined to administer the program. Other States do not have the staff they need to run the program well.

We propose a new formula instead. States would receive an amount equal to 20 percent of the first \$50,000 in program funds distributed in the State the previous year, plus 10 percent of the next \$50,000 in funds, 5 percent of the next \$100,000 funds, and 2 percent of all funds after that. The Secretary would be authorized to adjust the amounts going to individual States to reflect changes in the size of the State programs since the previous year. This new formula would provide the greatest percentage increase for States with small programs. The total additional cost of the new formula would not exceed \$500,000 per year nationwide. This subsection also directs USDA to set State standards to ensure sufficient staff for proper planning and administration and to withhold administrative funds from any State failing without good cause to comply with these standards or to carry out the approved State plan.

(9) A requirement that States register vendors. The registration process would include certification that the vendor meets health, safety, and sanitation standards, and a disclosure of any relationships between officials of the vending company and any sponsor or vendor that participated in the program in prior years.

(10) A provision that the Department set requirements for contracts with vendors, including bonding requirements, procedures for review of contracts by States, and safeguards to prevent collusive bidding.

(11) A requirement that sponsors submit their administrative budget for approval, in advance, by the States.

(12) A new requirement for the promulgation of model meal quality standards for contracts between sponsors and vendors, and for administrative actions to insure that sponsor-vendor contracts meet acceptable food quality standards.

(13) A requirement for earlier publication of regulations, handbooks, and applications to allow for better program planning.

(14) A reduction in the amount of start-up funds that a State may provide to a sponsor--from 10 percent of a sponsor's anticipated total reimbursement (which is too high) to 20 percent of a sponsor's approved administrative budget.

(15) A requirement that priority in running the program be placed on sponsors who prepare meals on-site and in schools.

(16) A requirement that State plans must include timetables for training, plans for monitoring and inspection, plans to correct violations, plans for registering vendors, plans for auditing sponsors, and appeal procedures.

(17) Tough criminal penalties for fraud in connection with the summer feeding program.

Status of Summer Feeding Investigation

I would also like to inform the Committee that we are moving ahead with audits and investigations to uncover misuse of funds in past operations of this program. The Office of General Counsel in the Department is now conducting a thorough review of these investigations and, where appropriate, is referring matters to the Justice Department.

Moreover, last month I created an Office of Inspector General within the Department. The Inspector General will have far-reaching powers to monitor operations of the Food and Nutrition Service, and of other agencies in the Department. This office will report to me regarding findings concerning USDA food programs, including the 1977 summer feeding program.

Before moving on to other child nutrition programs, there is one additional point I would like to make. It is that while this program has had serious problems--and has involved unscrupulous sponsors and vendors--the large majority of sponsors in this program across the Nation have been honest and have been doing a reasonable job. I am sure the Committee will be surprised to learn, as I was, that 70 percent of all sponsors either prepare their meals on-site or at schools, that 77 percent of the sponsors have fewer than 10 sites, and that the typical sponsor serves only several hundred children.

These small sponsors, who include many churches, schools, settlement houses, YMCA's and YWCA's, girls and boys clubs, the Boy Scouts and Girl Scouts, the Extension Service, the Salvation Army, and other community-based agencies, are generally not the sponsors who have been making headlines because of mismanagement of this program.

#### Non-food Assistance

The proposals we are presenting would also revise the non-food assistance program. This program provides funds for the purchase by schools of food service equipment needed for the school lunch and breakfast programs.

For the past five years, a portion of the funds appropriated each year for non-food assistance have been reserved for high priority uses. In fiscal years 1973, 1974, and 1975, fifty percent of all non-food funds were reserved for use in "no-program" schools (schools without any food service program for their children). The Congress had determined that bringing these schools into the school food programs -- and serving these children for the first time -- represented the highest priority for non-food assistance funds.

In fiscal years 1976 and 1977, one-third of the non-food assistance funds were reserved. These funds could be used either to equip no-program schools or to equip schools lacking the facilities to prepare or receive hot meals. This means that a school able to serve only a cold lunch could qualify for these reserved funds.

The Department proposes that the percentage of funds reserved for high priority uses be returned to 50 percent -- and that the number of schools eligible for these priority funds be enlarged. We propose that schools that are unable either to prepare and cook their own hot meals or to receive hot meals cooked in a satellite kitchen operated by the school district be eligible for reserved funds. This would mean that schools equipped only with convection ovens to heat frozen, pre-plated meals could qualify for reserved funds so that such schools could begin cooking their own meals on-site.

We are recommending this change because of our serious concern over the plate waste and meal quality problems in many schools where frozen, pre-plated meals are served.

Our proposal also provides that non-food assistance funds (both reserved and unreserved) be used only to provide equipment for cooking and preparing meals at schools (or at satellite schools or central kitchens operated by the school district) unless a school demonstrates to the State that an alternative method of meal preparation (such as a convection oven to heat frozen, pre-plated meals) is necessary to start a school food program, to keep a program in existence or to improve the consumption of food or the participation of eligible children in the program.

We believe that in many circumstances, it is an unwise use of Federal non-food assistance money to dismantle a kitchen used for on-site preparation and to replace it with a convection oven for heating the frozen, pre-plated meals.

We recognize that some States will oppose an increase from 33 1/3 percent to 50 percent in the proportion of equipment funds that are reserved. However, we believe that it is proper to target 50 percent of these funds on the schools where they are most needed -- the schools with no program at all and the schools unable to provide a hot meal cooked by the school or the school district.

We recognize these proposals may also meet with some opposition from the manufacturers of the frozen, pre-plated meals. However, we view our proposed changes as a part of an intensified Department of Agriculture effort to upgrade the quality of school lunches and to reduce plate waste.

We should add that we also intend to review the procedures under which schools are allowed to claim the depreciation of food service equipment as part of the ongoing cost of the school lunch program, and the appropriate relationship of these procedures to the non-food assistance program.

#### Commodity Purchase Authority

Finally, we would like to discuss the programs under which the Department of Agriculture purchases and donates commodities to child nutrition programs and the Title VII elderly feeding program. We support these commodity purchases and plan to continue them.

Section 14(a) of the National School Lunch Act is one of the several places in that Act in which commodities are mentioned. Section 14(a) expires on September 30, 1977.

We have not yet reached a decision on whether to request an extension of Section 14(a). Having said that, let me explain that the issue is purely one of whether Section 14(a) simply duplicates the commodity purchase authority contained in Section 6 of the National School Lunch Act and Section 707 of the Older Americans Act. If our lawyers conclude that the Section 14(a) authority is duplicative, we will not request its extension. Conversely, if the lawyers conclude that Section 14(a) is necessary to ensure an adequate supply of commodities for child nutrition and elderly feeding programs, then we will seek its extension. In either event, it is our intention that the actual commodity deliveries continue.

In closing I would like to observe that on a number of occasions in the past when Congress considered child nutrition legislation, new programs or new components of existing programs were added into law. The Department is planning to review the entire child nutrition area before next year. We request the Committee, and the Senate Committee on Agriculture, Nutrition, and Forestry, not to add any new programs or program components this year. Let us work together to study what we now have, and work together next year to chart what should be done in the future to strengthen our efforts in this important area.





